

February 9, 2018

VIA ELECTRONIC DELIVERY

The PJM Board of Managers
c/o Mr. Howard Schneider, Chairman
Andrew L. Ott, President and CEO
PJM Interconnection LLC
PO Box 1525
Southeastern, PA 19399-1525

Re: **Recommendations regarding PJM's Capacity Construct/Public Policy Senior Task Force (CCPPSTF)**

Dear Chairman Schneider, Mr. Ott, and PJM Board of Managers:

We, Blue Ridge Power Agency, Citizens Utility Board, Delaware Division of the Public Advocate, Illinois Attorney General's Office, PJM Industrial Customer Coalition, Kentucky Office of the Attorney General, Maryland Office of People's Counsel, North Carolina Electric Membership Corporation, Office of the People's Counsel for the District of Columbia, and Northern Virginia Electric Cooperative, (collectively "Joint Consumer Coalition") have been actively engaged in PJM's Capacity Construct/Public Policy Senior Task Force ("CCPPSTF") since the initiation of the process. In light of the January 25 Markets and Reliability Committee ("MRC") vote rejecting all proposals and PJM staff's extraordinary decision to ignore stakeholder input and recommend the adoption of its repricing proposal, we wanted to share with you directly our concerns on behalf of consumers in our states. As we discuss in further detail below, the Joint Consumer Coalition cannot support the PJM repricing proposal. This proposal would artificially inflate supply costs without producing any corresponding grid value. Setting the repricing proposal aside would leave the Board with three options: accepting the status quo for the time being, adopting the Independent Market

Monitor's ("IMM") proposal, or reconvening the stakeholder process to identify a consensus proposal.

From March 2017 through November 2017, there were twenty-two CAPPSTF stakeholder meetings. Stakeholders offered ten proposals. Each proposal sponsor was given an opportunity to present, debate, and amend its proposal. In November 2017, the senior task force proceedings concluded in a vote on the remaining proposals. After hours of discussion, proposal revisions, and debate, the final results were 63.4% support for the status quo (nonbinding), 63.03% support for the IMM proposal, and 26.1% support for the PJM proposal. Ahead of the MRC vote, the IMM made changes to its proposal that addressed some, but not all, of the concerns the Joint Consumer Coalition and other stakeholders had raised. On January 25, the MRC rejected the PJM proposal by a wide margin (1.07 out of 5 sectors in favor). The MRC also rejected the IMM proposal (3.19 out of 5 sectors in favor) by a narrower vote.

The clearest takeaway from both of these votes is that the stakeholders most familiar with the CAPPSTF overwhelmingly rejected the PJM repricing proposal. Opposition came from all sectors, and stakeholders in four of the five sectors rejected the proposal by wide margins. Such broad-based, wide-spread opposition calls into question whether the PJM proposal meets the "just and reasonable" standard. Additionally, approval by the Board of a proposal which received widespread stakeholder rejection would significantly undermine confidence in the stakeholder process—the bedrock of PJM policy-making. If stakeholder views are ignored and the perception exists that the outcome is preordained, stakeholders will have less incentive to participate in the process or offer proposals, to the detriment not just of PJM as an institution but also of the markets it operates.

The Board could—and should—accept stakeholders’ stated preference for the status quo. In November, nearly two-thirds of stakeholders voted in favor of retaining the status quo. This vote demonstrates stakeholders’ confidence that PJM should forestall artificially inflating capacity prices to offset the impacts of state policies. For now, stakeholders have made it clear that they prefer the status quo to the proposals that have been presented. Should conditions change and stakeholder consensus shift in favor of intervention, the process could pick up where it left off. PJM could draw on the work done by the CCPSTF, including the proposals there offered.

Stakeholders have expressed several reasons for supporting the status quo. The Organization of PJM States (“OPSI”) stated in its letter to the Board that the stakeholder process convened in pursuit of “proposals for the hypothetical fears of the Impact of State Action on the RPM Construct,” yet, OPSI notes, the evidence does not bear out these hypothetical concerns.¹ In fact, PJM has the most drastic *oversupply* of any RTO in North America. As NERC’s 2017 Summer Reliability Assessment demonstrated, PJM’s 28-percent anticipated reserve margin exceeds its reserve requirement of 16.6 percent by approximately two-thirds.² Further, neither of the proposals before the Board would change the amount of capacity the market supplies. If adopted, either one would provide the same oversupply, but at an inflated price. The Joint Consumer Coalition concurs with OPSI’s

¹ Letter from Org. of PJM States to PJM Bd. of Mgrs. 2 (Oct. 9, 2017), <http://www.pjm.com/-/media/about-pjm/who-we-are/public-disclosures/20171010-opsi-letter-regarding-concerns-with-pjms-capacity-construct.ashx> [hereinafter “OPSI Letter”].

² N. AM. ELECTRICITY RELIABILITY CORP., 2017 SUMMER RELIABILITY ASSESSMENT 26 (2017), <http://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/2017%20Summer%20Assessment.pdf>. PJM’s 2017 results are nearly identical to 2016, when these numbers were 28.85 and 16.4 percent. N. AM. ELECTRICITY RELIABILITY CORP., 2017 SUMMER RELIABILITY ASSESSMENT 15 (2016), http://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/2016%20SRA%20Report_Final.pdf.

conclusion that “neither artificially and unnecessarily higher capacity costs nor improper restrictions on state public policies would be acceptable.”³

In light of excess supply, shifting a larger share of total revenues into the capacity market risks forcing consumers to pay to retain resources that are not needed from a resource adequacy standpoint. Further, the Joint Consumer Coalition doubts that these proposals would stop states from pursuing their policy objectives. Consumers already pay for these policies once. They should not have to pay for them twice.

Moreover, the expected costs of the PJM and IMM proposals are as of yet unknown. Either proposal would raise costs for consumers as compared to the status quo, but it is not clear by how much. The Joint Consumer Coalition has seen neither cost projections nor analysis on how either proposal might interact with PJM’s other initiatives, like PJM’s proposal to reform energy market prices or potential response to FERC’s resilience proceedings. We caution the Board not to adopt a proposal without knowing its costs with sufficient certainty. Additionally, the Joint Consumer Coalition believes that the repricing proposal would be susceptible to considerable market manipulation that would undermine any claim of “just and reasonable” rates.

However, there remains before the Board the IMM’s Minimum Offer Price Rule Extension (“MOPR-Ex”) proposal. MOPR-Ex received far more support than PJM’s repricing proposal did at both the task force and MRC levels. The IMM has been responsive to stakeholders’ concerns, and adjustments to the proposal have allowed some consumer advocate offices to support the proposal as amended. However, not all offices can support MOPR-Ex as currently proposed. The extent to which individual consumer advocate offices

³ OPSI Letter at 2.

are willing to accept MOPR-Ex varies according to what policies their respective states have in place. Among several concerns preventing offices from being able to support MOPR-Ex is that it would inflate the cost of complying with their states' renewable portfolio standards, which require new builds in the coming years.

There is one final option for the Board. The Board has the option to request that PJM staff and stakeholders continue working toward a proposal that can earn the support of the two-thirds of stakeholders required for MRC endorsement. The rushed timeline in place for the CCPPSTF proceedings prevented stakeholders from adequately reviewing and refining proposals to resolve uncertainty and build consensus. PJM staff has stated that there is additional time to work on this issue. Even if adopted today, a proposal would not take effect until after the May 2018 base residual auction. Returning to the stakeholder process is perhaps the most prudent choice, allowing both the Board and stakeholders to assess the outcome of the Federal Energy Regulatory Commission's new proceeding on grid resilience⁴ before moving forward. The Joint Consumer Coalition believes that continued robust discussion of this important issue—the preference of stakeholders in all sectors—serves the interests of all stakeholders and would best address any possible deficiencies in the capacity market. With additional time, stakeholders could develop a proposal with broad enough support for endorsement.

⁴ See Order Terminating Rulemaking Proceeding, Initiating New Proceeding, and Establishing Additional Procedures, 162 FERC ¶ 61,102 (Docket Nos. RM18-1, 18-7, Jan. 8, 2018).

The Joint Consumer Coalition asks that the Board reject the PJM repricing proposal and, while only some offices are willing to accept the current MOPR-Ex proposal as an alternative, we all can support retaining the status quo or resuming stakeholder proceedings to identify a consensus proposal. There is no urgency to adopt a proposal at this time.

Respectfully submitted,

On behalf of the following organizations:

Blue Ridge Power Agency

Alice Wolfe, General Manager

Citizens Utility Board

Kristin Munsch, Deputy Director

Eric DeBellis, Attorney & Policy Analyst

Delaware Division of the Public Advocate

Andrew C. Slater, Public Advocate

Ruth Ann Price, Deputy Public Advocate

Illinois Attorney General's Office

Susan L. Satter, Public Utilities Policy Counsel

Jacques LeBris Erffmeyer, Assistant Attorney General

PJM Industrial Customer Coalition

Susan E. Bruce, McNees Wallace & Nurick LLC

Kentucky Office of the Attorney General

Rebecca W. Goodman, Executive Director, Office of Rate Intervention

Lawrence W. Cook, Assistant Attorney General

Kent A. Chandler, Assistant Attorney General

Maryland Office of People's Counsel

Paula M. Carmody, People's Counsel

William F. Fields, Senior Assistant People's Counsel

North Carolina Electric Membership Corporation

Michael Burnette, Senior VP – Power Supply and COO

Office of the People's Counsel for the District of Columbia

Sandra Mattavous-Frye, People's Counsel

Karen R. Sistrunk, Deputy People's Counsel

Frederick (Erik) Heinle III, Assistant People's Counsel

Northern Virginia Electric Cooperative

Michael J. Daley, VP – Energy and Business Development

cc:

Mr. David Anders, Secretary, Director of Stakeholder Affairs, PJM

Ms. Denise Foster, Vice President – State & Member Services, PJM

Ms. Evelyn Robinson, Managing Partner – State Government Affairs, PJM